VIRGINIA LAW REGISTER

R. T. W. DUKE, JR., *Editor.*

BEIRNE STEDMAN, *Associate Editor.*

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The Albemarle Bar—IV.

From 1794 up to 1809 a large number of lawyers seem to have qualified at the Albemarle Bar, some of whom are now but names. One of the most distinguished was Dabney Carr, whose name is inseparably connected with William Wirt. The two were the most intimate friends and from the time of Wirt's sojourn in Albemarle to the day of his death he kept up a constant correspondence with Dabney Carr. Dabney Carr was a nephew of Mr. Jefferson. He qualified at the Albemarle Bar in 1796 and began practice in Charlottesville, marrying his cousin Elizabeth Carr. He became chancellor of the western district of Virginia and subsequently became judge of our Supreme Court of Appeals in 1824, and died in Richmond in 1837. His opinions are to be found in volumes II Randolph to VIII Leigh inclusive.

William W. Irving was born in Albemarle in 1778 and studied law and was admitted to the Bar in 1800. After practicing a short time in Albemarle he moved to Lancaster, Ohio and was elected as a Jeffersonian Democrat to the 21st and 22nd Congresses, and finally became a Judge of the Supreme Court of the State of Ohio, dying in 1842.

Jesse Wharton was born in the County about 1760, and qualified along with Dabney Carr, practicing a short while at the Albemarle Bar and then moving to Tennessee. He was elected to Congress from Tennessee and subsequently was United States Senator from the same state.

George Poindexter was born in Louisa in 1779 but qualified at the Albemarle Bar a year after Dabney Carr. He practiced in Albemarle only a short while, then moved to what was then

the Territory of Mississippi, was elected a delegate from that Territory to the 10th, 11th, and 12th Congresses, became a United States district judge for the Territory, was a representative from Mississippi in the 15th Congress, was Governor of Mississippi in 1819 and 1821, was a United States Senator for over four years, and after a short sojourn in Kentucky returned to Mississippi, where he died in 1853.

Francis Johnson qualified at the Albemarle Bar in 1800 and became a member of the Virginia Legislature; moved to Bowling Green, Kentucky, and served as an Adams Republican in the 16th, 17th, 18th, and 19th Congresses, and died in 1851.

Isaac A. Coles was born in Albemarle, practiced law for a short while at the Albemarle Bar, and was elected representative from this district to the 1st, 3rd and 4th Congresses.

Hugh Nelson, the ancestor of the present family in the County of Albemarle, and a descendant of Governor Nelson, qualified at the Albemarle Bar in 1800. He was well educated and while quite a young man was elected to the Virginia Legislature and served as Speaker of the House of Delegates. He became a judge of the General court and was subsequently elected a representative to the 12th, 13th, 14th, 15th and 17th Congresses, resigning to become Minister to Spain, and subsequently returning home, was appointed a United States Judge of this district. He was a man of very imposing presence and for a while was quite a power in Virginia politics and a man of the most genial and delightful qualities.

One member of the bar qualifying about 1804 was Peachy Gilmer, who never held any public office and whose name would be that of a mere memory if it were not for a very charming diary which he wrote and which was published. He was a son of Dr. George Gilmer; was a man of great wit and humor, and lies buried upon some of the land in Albemarle which was devised to him by his uncle-at-law George Divers.

As some of the names which follow these deserve more than a passing mention we will postpone further comment on the Albemarle Bar for our next number.

Old Deeds in the Office of the Circuit Court of the City of Richmond.

Our Virginia Antiquarian Lawyer—We mean by that our "Lawyer Antiquarian"—Hon. Joseph T. McAllister, of Hot Springs, has done the profession a kindness by calling attention to the fact that there is an old deed book in the office of the Clerk of the Circuit Court in Richmond of whose existence the public in Virginia ought to be informed. Mr. McAllister's attention was called to this book by the Hon. E. T. Cox, of the Richmond Bar. During the Civil War the judge of this Circuit Court construed the authority of the court as successor to the general court to embrace the right to record deeds affecting land at any points in the State of Virginia. An examination of this book shows that it contains numerous deeds recorded during the Civil War, conveying lands at points in the State which were overrun by the federal armies or in danger of being so overrun. There is a valuable deed in the book to the Virginia Hot Springs property, and many deeds to lands in eastern Virginia, in Culpeper, Fauquier, and to some in what is now the State of West Virginia. The editor hopes some of these times to be able to have a list of these deeds published. Of course there is a very grave doubt whether this court had any authority to record these deeds and whether their recordation in the Richmond office would be notice to any one, but certainly, the profession ought to be informed of the important fact of this book's existence and we desire to acknowledge the debt which we owe to Messrs. McAllister and Cox.

Uniform Judicial Procedure in the Federal Courts.

The subject of procedure in the United States courts, as is well known, is regulated by Chapter 18 of Title 13 of the Revised Statutes. In so far as this applies to the common law courts, Section 1914 of the Revised Statutes is supposed to govern. This section is as follows:

"The practice, pleadings, forms and modes of proceeding in

civil causes other than equity and admiralty causes, in the circuit and district courts, shall conform as near as may be to the practice, pleading, forms and modes of proceeding existing at the time in like causes in the courts of record of the state within which such circuit or district courts are held, any rule of court to the contrary notwithstanding."

This section must be read in connection with Section 1918 of the Revised Statutes, which reads as follows:

"The several circuit and district courts may from time to time, in any manner not inconsistent with the common law of the United States or with any rule prescribed by the Supreme Court under the preceding section, make rules and orders directing the return of writs and processes, the filing of pleadings, the taking of rules and entering and making up of judgments by default and other matters in vacation and otherwise regulate their own practice, as may be necessary or convenient for the advancement of justice and the prevention of delays in proceedings."

It would be supposed that the words, "as near as maybe" would to a certain extent serve as a check upon the federal courts and prevent them from changing the substance and general modes of procedure of the state practice, but such has not been the case. On the contrary there has been the widest divergence from state practice in nearly every court in the Union, and in the report of the Committee on Uniform Judicial Procedure, of the State Bar Association a statement has been filed showing the numerous failures of the federal courts to conform to state practice. In a great many of these cases the Supreme Court of the United States held that conformity was impracticable. A state statutory writ and a change of venue was denied in *Kennon* v. *Gilmer* (131 U. S. 24, 33 L. ed. 110). That the personal conduct and administration of a federal judge was not affected by state statute regulating the manner in which a jury should be charged, was held in *Knudd* v. *Burrows* (91 U. S. 441, 23 L. ed. 286). That the provisions for uniformity do not extend to modes of procedure established by judicial interpretation of common law but only to statutes, was held in Wall *v.* C. & O. R. R. Co. (95 Fed. 398). That actions at law, regardless of state statutes, must be brought in the name of the

owner of the legal title, was held in Norfolk Co. *v.* Sullivan (111 Fed. 181). That statutory substituted service is not applicable to the federal courts. (Bracken *v.* Union P. R. R., 56 Fed. 447.) That a federal rule of practice prevailed regardless of a subsequent state statute altering the time in which a writ is returnable. (Shepherd *v.* Adams, *supra.*) That amendments of process and pleadings allowed by state statutes will not be followed when inconsistent with federal statutes or amendments. (Henderson *v.* Louisville R. R. Co., 123 U. S. 64.) That an equitable counter claim cannot be set up in a federal court. (Church *v.* Speigelburg, 31 Fed. 601.) That the granting or refusing of a continuance is a matter within the discretion of the court notwithstanding a contrary state statute. (Texas R. Co. *v.* Nelson, 50 Fed. 814.) That the selections of jurors does not follow the mode prescribed by state statutes. (Brewer *v.* Jacobs, 22 Fed. 217.) That a state statute permitting a party to be examined by his adversary in advance of the trial will not be followed. (Union P. Co. *v.* Botsford, 141 U. S. 257, 35 L. ed. 735.) That the competency of witnesses depends upon section 858, Revised Statutes, and not upon state statutes. To effect this it was held that section 921, Revised Statutes, prevailed over section 914, Revised Statutes; that the production of books and papers was regulated by section 721, Revised Statutes, as amended and not by the state statutes; that the federal courts might instruct a verdict or order a compulsory nonsuit or for the defendant or plaintiff, regardless of state statute. (Vicksburg Co. *v.* Putnam, 118 U. S. 553, 30 L. ed. 257.) That instructions need not be in writing. (Lincoln *v.* Power Co., 151 U. S. 442, 38 L. ed. 224.) That a state statute requiring instruction or a special verdict need not be observed. (U. S. Mutual Co. *v.* Barry, 131 U. S. 119, 33 L. ed. 60.) The granting and refusing of new trials is not controlled by state statutes. (Newcomb *v.* Wood, 97 U. S. 583, 24 L. ed. 1085.) That the question of cost is not governed by state statutes but by section 823, Revised Statutes, which was held to supersede section 914, Revised Statutes. That everything after a judgment looking to its review in an appellate court is regulated solely by the acts of Congress. (Hudson *v.* Parker, 156 U. S. 281, 39 L. ed.

424.) That regulations concerning preserving of exceptions are not governed by state statutes. (Chataugay Co. *v.* Petitioner, — U. S. 553, 32 L. ed. 511.) That the means of enforcing a judgment are not within state statutes but sections 915 and 916, Revised Statutes. (U. S. *v.* Train, 12 Fed. 853.) That a stay of execution is not governed by state statutes; that section 916 supersedes section 914. (Lancaster *v.* Keller, 123 U. S. 389.) That state garnishment proceedings will not be followed. (Atlantic R. Co. *v.* Hopkins, 94 U. S. 13, 24 L. ed. 48.) That mandamus proceedings will not follow state practice. (Batch Co. *v.* Amy, 13 Wall. 250, 20 L. ed. 541.) That a proceeding to restore records is not within section 914, Revised Statutes. (3 Biss (U. S.), 307 (1872).) That the question of jurisdiction was controlled solely by federal statutes. (Mexican Co. *v.* Pinckney, *supra.*) That wherever Congress has legislated on or in reference to a particular subject involving practice or procedure the state statutes are never held to be controlling. (Harkness *v.* Hyde, 98 U. S. 476, 25 L. ed.)

It will thus be seen that a lawyer practicing in one state court will be very much embarrassed in attempting to proceed in another state court and will be compelled to do a lot of useless work, which ought not to be the case. There has been a steady effort on the part of the American Bar Association and many of the bar associations of the states to attempt to cure this palpable evil. There is no reason in the world why there should not be a simple, correlated, scientific system of rules of procedure, alike in every federal court in the United States. The idea that there should be forty-odd different roads leading to get a case into court, and handling it after it is in court, is simply absurd, and nothing but laziness on the one hand and intense conservatism on the other has prevented a uniform code of procedure long since. The older members of the bar remember the frequent miscarriages of justice under the old system of common law pleading, even when, as an old county court lawyer used to say, it was "modulated" by statute. The remedy by motion now almost universally used, took years to be placed upon the statute book in regard to torts. Its working has been very simple and has given rise to very few decisions from the

courts. There is now pending in the Congress of the United States a bill to cure this trouble and the report of the Committee of the American Bar Association states that a majority of the Judicial Committee and a majority of the senators are in favor of it. We suggest that every lawyer in the State write to his Congressman and Senators, urging them to have this bill passed just as soon as possible.

Are We Drifting into Socialism in Our Highest Courts? Are Contracts to Be Impaired by Judicial Decisions?

The Editor was once in a Virginia court many years ago when a decidedly egotistical young lawyer was arguing a case before a very gentle, mild and learned judge. The judge interrupted the young advocate and said to him, "Mr. X., are you aware that the point you are now arguing has been decided by the Supreme Court of the United States adversely to your present contention?" "I am, sir," was the reply, "but the Supreme Court is wrong." The judge leaned back, smiled and asked no more questions. In view of some of the late decisions of that illustrious body we are afraid there are many lawyers who think that the egotistical young barrister was not far out of the way. We have never felt as much like re-echoing him as when we read the decision of the Court upholding the New York Housing Laws and a similar enactment by Congress for the District of Columbia. But our consolation in our temerity is that four out of the nine judges agree with us, and the Chief Justice—the ablest lawyer on the bench—heads the dissenters, J. J. McKenna, McReynolds and VanDevanter. The New York case, *Brown* v. *Feldman,* etc. was one in which leases had been made prior to the passage of the emergency laws, which went into effect Oct. 1st, 1920. But for these laws the tenants would have been automatically ejected. They held that under these laws they could not be ejected, and the state courts upheld their contention, and the Supreme Court of the United States sustains the lower court.

The District of Columbia case, *Block* v. *Hirsh,* was brought to test the validity of the Bull Act, which set up a Fair Rent

Commission and forbade the dispossession of a tenant at the end of a current lease except on the ground of undesirability. Mr. Justice Holmes, delivering the opinion of the court lays down the general proposition:

> "To be maintained is that circumstances have clothed the renting of buildings in the District of Columbia with a public interest so great as to justify regulation by law. Plainly, circumstances made no change in time or difference in space as to clothe with such interest what at other times or in other places would be a matter of purely private concern."

He pointed out that police powers had been invoked in several cities to limit the height of buildings, and to that extent had interfered with property rights. The Supreme Court had also held in suits involving the maintenance of watersheds and in phases of the insurance business that public interest might require a limitation of property rights.

"We do not perceive any reason for denying the justification held good in foregoing cases," he continued "to a law limiting rights of real property, if the public exigency requires that."

This was in the District of Columbia case. The New York case was a bill in equity brought by the Barcus Brown Holding Company, the appellant, owner of a large apartment house in the city of New York, against the tenants of an apartment in the house and the District Attorney of the County of New York. The tenants are holding over after their lease has expired, which it did on Sept. 30, 1920, claiming the right to do so under Chapters 942 and 947 of the laws of New York of 1920. The object of the bill is to have these and other connected laws declared unconstitutional.

The District Attorney was joined in order to prevent his enforcing by criminal proceedings Chapters 131 and 951 of the acts of the same year, which make it a misdemeanor for the lessor or any agent or janitor intentionally to fail to furnish such water, heat, light, elevator, telephone or other service as may be required by the terms of the lease and necessary to the proper or customary use of the building. The case was heard in the District Court by three Judges upon the bill, answer, affidavits and some public documents, all of which may be summed

up in a few words. The bill alleged at length the rights given to a lessor by the common law and statutes of New York before the enactment of the statutes relied upon by the tenants, a covenant by the latter to surrender possession at the termination of their lease and due demand and claims protection under Article 1, Section 10, and the Fourteenth Amendment of the Constitution of the United States.

An affidavit alleged that before the passage of new statutes another lease of the premises had been made, to go into effect on Oct. 1, 1920. The answer of the tenants relied upon the new statutes and alleges a willingness to pay a reasonable rent and any reasonable increase as the same may be determined by a court of competent jurisdiction. It also alleged that they made efforts to obtain another suitable apartment, but failed. The District Attorney moved to dismiss the bill. The judges considered the case upon the merits, upheld the laws and ordered the bill to be dismissed.

It will be noticed that these contracts of renting were made before the laws were passed. It will also be noticed that there was nothing in the law requiring a tenant to hold on and pay rent unless he chose to do so. The laws in both cases were absolutely one-sided. The landlord had no rights which the tenants were bound to respect. The tenants could leave at the end of the lease and leave the landlord with a vacant apartment on his hands; but the landlord could not eject a tenant except on the ground of unfitness. It will be seen as well, that these laws absolutely impaired—in fact destroyed—the contracts made before their passage, and the sole ground upon which the bare majority of the Court decides the case is that of a public emergency, which Judge Holmes holds is a declaration of the Legislature "by necessity and duty entitled to at least great respect."

The crowded condition of the cities is given as justifying this remarkable decision. In our humble judgment the emergency was just the other way. The safety of the country—our very food and raiment—does not depend upon the cities—the "cancers of the Nation", as Mr. Jefferson called them—but upon the farms in the country, clamoring for laborers, whilst the

great cities are thronged with people who ought to be on the farms and who are living in squalor, poverty and vice well nigh inconceivable—whole families in one room. To get people out of the cities—not to keep them in, is the problem to which law-makers ought to devote themselves. "Emergency!" What greater emergency can exist than that the "bread lines" in the city should be thinned and cultivation of bread-producing plants in the country increased? If men need homes they need food more. To follow the logical conclusions of the majority opinion, if Congress passed a law declaring that empty stomachs created a public emergency—and they surely do—and providing that no man should eat breakfast until he divided it with two hungry men, would not such a law be entitled to "the greatest respect?" Or suppose a landlady had ten boarders and the price of food quadrupled, as it did, and half of her boarders declared *and proved* that having no money they could not get food elsewhere, and the others declared they would not pay any more board than they had been paying; the Legislature then passed an act declaring that no landlady should eject a boarder who did not pay board or raise the price to those who did, and declare a public emergency existed for the passage of such a law—if the conclusions of the majority are to be followed such an act is constitutional. But says the learned Justice:

> "In the present case more emphasis is laid upon the impairment of the obligation of the contract of the lessees to surrender possession and of the new lease which was to have gone into effect upon Oct. 1 last year. But contracts are made subject to this exercise of the power of the State when otherwise justified as we have held this to be. Manigault *v.* Springs, 199 U. S. 437, 480; Louisville & Nashville R. R. Co. *v.* Mottley, 219 U. S. 467, 482; Chicago & Alton R. R. Co. *v.* Tranbarger, 238 U. S. 67, 76, 77; Union Dry Goods Co. *v.* Georgia Public Service Corporation, 248 U. S. 372, 375; Producers Transportation Co. *v.* Railroad Commission of California, 251 U. S. 228, 232.
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> "It is said, too, that the laws are discriminating in respect of the cities affected and the character of the buildings, the laws not extending to buildings occupied for business purposes, hotel property or buildings now in course of erection, &c. But as the evil to be met was a very pressing

want of shelter in certain crowded centres, the classification was too obviously justified to need explanation, beyond repeating what was said below as to new buildings, that the unknown cost of completing them and the need to encourage such structures sufficiently explained the last item on the excepted list.

"It is objected finally that Chapter 951, above stated, in so far as it required active services to be rendered to the tenants is void on the rather singular ground that it infringes the Thirteenth Amendment. It is true that the traditions of our law are opposed to compelling a man to perform strictly personal services against his will, even when he has contracted to render them. But the services in question, although involving some activities are so far from personal that they constitute the universal and necessary incidents of modern apartment houses. They are analogous to the service that in the old law might issue out or be attached to land. We perceive no additional difficulties in this statute, if applicable as assumed. The whole case was well discussed below, and we are of opinion that the decree should be affirmed."

Following this reasoning to its legitimate conclusion, can one doubt that the example of the landlady and her boarders is far-fetched. An empty belly is more dangerous to the State than lack of a dwelling—especially when there are plenty of homes to be had almost for the asking, in the country.

And why confine the operation of the act to cities of such large size? We know today a city not as large by several hundred thousand inhabitants as New York, in which neither a home, apartment or lodging was at one time to be had for months. Did not the same "public emergency" exist there as in New York? If the power of the State is to be exercised in one case, why not in the other, and of what use is our Constitution?

The taking of private property for public uses, with compensation, is justified; but these acts take private property for private uses and without compensation. If the landlord in good faith had made a lease, to take effect at the end of an expiring lease at an advance, say, of eight hundred dollars—then these laws deprive him of that money, deprive him of the use and enjoyment of his property, because *private individuals* want the building or apartments. If this isn't rank socialism, what is?

We give Justice McKenna's dissenting opinion in part. It is unanswerable.

"The grounds of dissent are the explicit provisions of the Constitution of the United States; the specifications of the grounds are the irresistible deductions from those provisions, and, we think, would require no expression but for the opposition of those whose judgments challenge attention.

"The national Government, by the Fifth Amendment to the Constitution, and the States by the Fourteenth, are forbidden to deprive any person of 'life, liberty or property without due process of law.' A further provision of the Fifth Amendment is that private property cannot be taken for public use without just compensation. And there is a special security to contracts in paragraph 10 of Article I, in the provision that 'no State shall * * * pass any * * * law impairing the obligations of contracts.' These provisions are limitations upon the national legislation, with which this case is concerned, and limitations upon State legislation, with which Marcus Brown Holding Company *v.* Feldman et al is concerned."

Continuing, Justice McKenna declared:

"We may ask, of what concern is it to the public health or the operations of the Federal Government as to who shall occupy a cellar or room above it for business purposes in the city of Washington? (the question in this case); and why is it that the solicitude of the police power of the State of New York to keep from competition, an apartment in the city of New York? (the question in the other case).

"The answer is to supply homes to the homeless. It does not satisfy. If the statute keeps a tenant in, it keeps a tenant out; indeed, this is its assumption. Its only basis is that tenants are more numerous than landlords, that in some way this disproportion, it is assumed, makes a tyranny in the landlord, and an oppression to the tenant, notwithstanding that the tenant is only required to perform a contract entered into, not under the statute, but before the statute, and that the conditions are remedied by rent fixing (value adjustment) by the power of the Government. And this, it is the view of the opinion, has justification, because 'space in Washington is limited' and 'housing is a necessary of life.'

"A causative and remedia relation in the circumstances we

are unable to see. We do see that the effect and evil of the statute is that it withdraws the dominion of property from its owner, superseding the contract that he confidently made under the law then existing, and subjecting them to the fiat of a subsequential law.

"The statute permits a lessee to continue in possession of leased premises after the expiration of his lease. This is contrary to every conception of leases the world has ever entertained.

"If such exercise of Government be legal, what exercise of Government is illegal? Houses are a necessity of life, but other things are as necessary. May they, too, be taken from the direction of their owners and disposed of by the Government? Who supplies them, and upon what inducement? And when supplied, may those who get them under promise of return, and who had no hand or expense in their supply, dictate the terms of retention or use and be bound by no agreement concerning them?

"If the public interest can extend a lease it can force a lease; the difference is only in degree and boldness. The prospect expands and dismays when we pass outside of considerations applicable to the local and narrow conditions of the District of Columbia.

"Has it (the Constitution) suddenly become weak? Has it become an anachronism, and is it to become 'an archeological relic,' something to engage and entertain the study of antiquarians?

"There can be no conception of property aside from its control and use. Protection to it has been regarded as a vital principal of republican institutions. Our social system depends upon its sanctity and the State or community which seeks to invade it will soon discover the error in the disaster which follows."

At another point, this opinion ran:

"It is the assertion of the statute that the Federal Government is embarrassed in the transaction of its business, but as we have said, a New York statute is committed to us, and counsel have referred to the legislation of six other States. And there is intimation in the opinion that Congress in its enactment has imitated the laws of other countries.

"The facts are significant and suggest the inquiry, have conditions come not only to the District of Columbia embarrassing the Federal Government, but to the world as well, that are not amenable to passing palliatives, and that socialism, or some form of socialism, is the only permanent cor-

rective or accommodation? It is indeed strange that this course, in effect, is called upon to make way for it, through an instrument of a Constitution, based on personal rights to declare legal a power exerted for that instruction. The inquiry occurs, we have come to the realization of the observation that 'war unless it be fought for liberty is the most deadly enemy of liberty.' "

In the dissenting opinion Justice McKenna said in the New York case:

"This case was submitted with Block, &c. *v.* Hirsh, No. 640 (the District of Columbia case). Like that case, it involves the right of a lessee of property—in this case an apartment house in New York City, to retain possession of it under a law of New York after the expiration of the lease. This case is an emphasis of the other, and the argument in that applies to this. It may be more directly applicable, for in this case the police power of the State is the especial invocation, and the court's judgment is a concession to it. And, as we understand the opinion, in broader and less hesitating declaration of the extent and potency of that power. 'More emphasis,' it is said, 'is laid upon the impairment of the obligation of the contract' than in the Hirsh case. In measurement of this as a reliance, it is said, 'but contracts are made subject to this exercise of the power of the State when otherwise justified, as we have held this to be.' The italics are ours, and we estimate them by the cases that are cited in their explanation and support.

"There is not a line in any of them that declares that the explicit and definite covenants of private individuals, engaged in a private and personal matter, are subject to impairment by a State law, and we submit, as we argued in the Hirsh case, that if a State law has such power—if its power is superior to Article 1, Section 10 and the Fourteenth Amendment, it is superior to every other limitation upon every power expressed in the Constitution of the United States, commits rights of property to a State's unrestrained conceptions of its interests, and any question of them—remedy against them—is left in such obscurity as to be a denial of both. There is a concession of limitation but no definition of it, and the reasoning of the opinion, as we understand it, and its implications, and its incident, establish practically unlimited power.

"We are not disposed to further enlarge upon the case or attempt to reconcile the explicit declaration of the Consti-

tution against the power of the State to impair the obligations of a contract or, under any pretense, to disregard the declaration. It is safer, saner, and more consonant with constitutional pre-eminence and its purposes to regard the declaration of the Constitution as paramount and not to weaken if by refined dialectics, or bind it to some impulse or emergency 'because of some accident of immediate overwhelming interest which appeals to the feelings and distorts judgment.' Northern Securities Co. *v.* United States, 193 U. S. 197, 400. We therefore dissent."

Virginia State Bar Association Meeting of 1921.

The Virginia State Bar Association meets just a little bit too late for us to give a full account of its meeting in the present issue. We know that the address of the President, Hon. Armistead C. Gordon, upon "Some Lawyers in Colonial Virginia" will be worth going much further than the City of Norfolk to hear, and we trust that some active good may come from the discussion of the right of corporations to practice law. We know as well that the social feature of the meeting will be, as it always is, one of the most delightful parts of this annual gathering of the Bar. Our only regret is that the Association has seen fit to invite the Hon. Albert C. Beveridge to deliver the annual address. Surely we lawyers in Virginia are the most forgiving and christianlike people on the face of the earth. We invited poor old George F. Hoar to address us some years ago. No man in the United States Congress was ever more vituperative and shamelessly bitter to the Southern people than this same Hoar, and though in his old age he repented and certainly tried to make the *amende honourable* in his address, we never could exactly understand why he was chosen. We are more at a loss to understand why ex-Senator Beveridge was chosen. While he possesses neither the ability nor the vituperative powers of Senator Hoar, his attitude in the Senate towards the Southern States was that of a most bitter partisan, and while he has written a life of Marshall which is admirable in a great many ways, the last volume contains the most shameful attack upon Mr. Jefferson—an attack

as absolutely useless as it is incorrect and giving an entirely distorted and wrong view of that great statesman. It is peculiarly unfortunate that this gentleman should have been selected in view of the fact that the State is celebrating the centennial of Mr. Jefferson's founding of the University of Virginia—probably one of the greatest acts in the history of that great man. Nothing has ever so broadened education or freed it from the shackels of the mere schoolmen as the University of Virginia. Its influence has been felt and will be felt throughout all time. Why this vituperator of Mr. Jefferson should have been selected upon this particular year is beyond our ken, and that we should go out of our way to select politicians who, no matter what they really believe, act as bitter enemies of the Southern people as far as their speeches and actions are concerned, must always be a source of regret to us. In order to go further, why not get the Hon. Henry Cabot Lodge to address us next time? This gentleman has been noted not only for his hatred of the South but for his absolute falsification of history wherever the South is concerned. His conduct in the House and Senate with his Force Bills is too well known for comment. As a historian he is unworthy of the name; for the work of a man who wrote a history of the Revolution and never mentioned Governor Nelson of Virginia in it, shows how valueless such work must be. His remarkable article in *The Century* some years ago in which by the aid of the National Biographical Dictionary he informed a credulous people that all the talent of the country lay north of Mason's and Dixon's line can never be forgotten by any lover of truth and fairness. His process was very simple: When a man was born north and went south and achieved fame he charged him to the north; when a man was born south and went north and achieved fame he charged him also to the north. We suggest hereafter that when we invite gentlemen of Hoar's and Beveridge's opinions to address us we should add at the foot of the invitation:

> "Fair sir, you spit on me on Wednesday last;
> You spurned me such a day; another time
> You called me dog; and for these courtesies
> I beg you to address me."